

May 30, 2014

Attorney William J. Wolske
Slatky, Wolske & Mehn
510 Main Street
P.O. Box 146
Kewaunee, WI 54216-0146

Re: Your client - Town of Washington
Our client - Juliette Nelson

Dear Mr. Wolske:

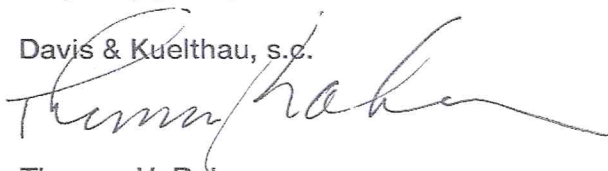
I have reviewed the Indemnification Agreement you sent and shared it with Ms. Nelson. Enclosed is a revision of that agreement in regular and comparison formats. I wanted to make clear in the agreement the parties are entering into this agreement as part of the process of negotiating a lease and access agreement and that the Indemnification Agreement is a stop-gap measure until the lease and access agreement can be finalized. I also made a few other changes as you can see.

If the revised agreement meets with your and your client's approval, please let me know and I will ask Ms. Nelson to sign her counterpart and have it notarized. Otherwise, please call with any concerns you may have.

Thanks.

Very truly yours,

Davis & Kuelthau, s.c.



Thomas V. Rohan

TVR:dkc

Enclosures

cc: Juliette Nelson (with enclosures)

*Nelson
Attorney
Revised*

6-4-2014 COPY TO JOEL R. GUNNLAUGSTON

Phone 920.435.9378 Direct 920.431.2243 Fax 920.431.2283
318 S. Washington Street Suite 300, Green Bay, WI 54301
trohan@dkattorneys.com

BROOKFIELD | GREEN BAY | MADISON | MILWAUKEE | OSHKOSH | SHEBOYGAN

www.dkattorneys.com

~~DUPLICATE ORIGINAL~~

INDEMNIFICATION AGREEMENT

This Indemnification Agreement ("Agreement") is made effective as of ~~May~~June __, 2014, between the Town of Washington, Door County, Wisconsin, a body corporate and politic organized under Chapter 60 of the laws of the State of Wisconsin, ~~having its administrative offices at 910 Main Road, Washington Island, WI 54246~~ ("Indemnitor") and Juliette B. Nelson, ~~of 27 Leonard Street, Gloucester, MA 01930~~a resident of the Commonwealth of Massachusetts ("Indemnitee") (collectively, the "Parties").

~~SECTION ONE~~ INDEMNIFICATION RECITALS

- A. Indemnitee is the owner of a parcel of property identified as Tax Parcel No. _____ (the "Property").
- B. Indemnitor has constructed and maintained an observation tower (the "Tower") that encroaches upon the Property.
- C. Indemnitor and Indemnitee are in the process of negotiating a lease and an access agreement, by which Indemnitor may continue to keep, maintain and use the Tower upon the Property.
- D. Indemnitee desires, as a condition of negotiating a lease of the Property and an access agreement during the period allowed herein, that Indemnitor agree to certain protections of Indemnitee.

~~For~~NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, ~~Indemnitor~~the parties agree as follows:

1. Recitals True. The above referenced recitals are true and shall not be subsequently challenged by either party.

2. Maintenance of Tower. Indemnitor may continue to keep and maintain the Tower upon the Property for the term of this Agreement.

3. Indemnification. Indemnitor, for itself, its officials, officers, board members, employees, agents, contractors and all of their respective successors and assigns, hereby agrees to indemnify and hold harmless Indemnitee, and her heirs, beneficiaries, grantees, mortgagees, invitees, and all of their respective successors, ~~grantees or and~~ assigns, against all suits, actions, claims, losses, demands, liability of every kind, including all expenses of litigation, court costs and attorneys' fees, for injury to or death of any person or for damage to any property or damages that arise from or in ~~direct~~ connection with the construction, repair, modification, use or existence of the ~~following:~~ Tower or the presence of any officials, officers, board members, employees, agents, contractors or invitees upon the Property.

~~Observation tower, known as "Mountain Tower"~~

~~attached to property owned by Indemnitee, and which encroaches on property owned by Indemnitee, and in exchange the Indemnitee hereby allows the public continued access to and use of the said observation tower. However, this permitted access and use may be discontinued at any time on thirty (30) days' written notice by either party to the other party. Indemnitor acknowledges that it does not have the ability to place any further encroachments on Indemnitee's property. However, to the extent that additional encroachments are placed on Indemnitee's property, these~~

~~encroachments too shall be subject to this Indemnification Agreement and the Indemnitee shall be entitled to pursue other legal recourse as she deems necessary.~~

~~SECTION TWO INDEMNIFICATION PROCEDURES~~

4. Procedures. If Indemnitor shall be obligated to indemnify Indemnitee under this Agreement, Indemnitor shall ~~be entitled to~~ assume the defense of such claim, with counsel approved by Indemnitee (which approval shall not be unreasonably withheld) upon the delivery to Indemnitee of written notice of its election to do so. ~~After delivery of such notice, and upon approval of such counsel by Indemnitee and the retention of such counsel by Indemnitor~~ Indemnitor shall pay all legal expenses, including actual attorney fees, incurred by Indemnitee in relation to the analysis of such claim and the giving of notice to Indemnitor and all defense costs incurred by Indemnitee if Indemnitee is required to defend any such claim because of a wrongful refusal by Indemnitor to defend such claim. Otherwise, Indemnitor will not be liable to Indemnitee under this Agreement for any fees of counsel ~~subsequently~~ incurred by Indemnitee with respect to the same claim; provided, however, Indemnitee shall ~~have the right to~~ may employ her own counsel in any such claim at her own expense.

~~SECTION THREE SEVERABILITY~~

5. Term. The term of this Agreement shall be from the date that appears in the first paragraph of this Agreement until the earlier of: (a) the date the parties enter into a lease and an access agreement of a portion of the Property required by Indemnitor and its invitees to enjoy the use of the Tower upon the Property; and (b) August 15, 2014. During the term of this Agreement, the parties shall make a diligent effort to negotiate and enter into a lease and an access agreement of a portion of the Property required by Indemnitor

and its invitees to enjoy the use of the Tower upon the Property.

6. Severability. If any part or parts of this Agreement shall be held unenforceable for any reason, the remainder of this Agreement shall continue in full force and effect. If any provision of this Agreement is deemed invalid or unenforceable by any court of competent jurisdiction, and if limiting such provision would make the provision valid, then such provision shall be deemed to be construed as so limited.

~~SECTION FOUR~~ ~~BINDING EFFECT~~

7. Binding Effect. The covenants and conditions contained in this Agreement shall apply to and bind the Parties and the heirs, legal representatives, grantees, and successors of the Parties.

~~SECTION FIVE~~ ~~ENTIRE AGREEMENT~~

8. Entire Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes any prior understanding or representation of any kind preceding the date of this Agreement relating to the subject matter of this Agreement between the Parties. ~~There are no other promises, conditions, understandings or other agreements, whether oral or written, relating to the subject matter of this Agreement.~~ This Agreement may be modified at any time in the sole discretion of Indemnitee, and Indemnitor agrees to promptly execute such modified written agreement.

~~SECTION SIX~~ ~~GOVERNING LAW~~

9. Governing Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Wisconsin. The foregoing notwithstanding, Indemnitee may enforce this Agreement in the courts of the

Commonwealth of Massachusetts, Essex County, and Indemnitor submits to such jurisdiction and shall not seek to have any such case dismissed or the venue of any such case changed.

~~SECTION SEVEN~~
~~NOTICE~~

10. Notices. Any notice required or otherwise given pursuant to this Agreement shall be in writing and sent by certified mail, return receipt requested, postage prepaid, or delivered by overnight delivery service, addressed as follows:

A. If to Indemnitor:

Town of Washington
Attn.: Clerk-Treasurer
910 Main Road
P.O. Box 220
Washington Island, WI 54246

B. If to Indemnatee:

Juliette B. Nelson
27 Leonard Street
Gloucester, MA 01930

~~SECTION EIGHT~~
~~NO WAIVER~~

11. No Waiver. The failure of either party to enforce any provisions of this Agreement shall not be deemed a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.

12. Counterparts and Signatures. This Agreement may be signed in counterparts. Facsimile and electronic signatures shall have the same effect as original signatures.

[Signature and notarization pages follow.]

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed
effective the day and year first written above.

INDEMNITOR:

Town of Washington, Wisconsin

By: _____
Joel Gunnlaugsson, Town Chairman

INDEMNITEE:

Juliette B. Nelson

Date: _____

By: _____
Valerie Carpenter, Town Clerk-Treasurer

Date: _____

STATE OF WISCONSIN)
) ss
COUNTY OF KEWAUNEE)

Personally came before me this ____ day of May, 2014, Joel Gunnlaugsson, Town Chairman, and Valerie Carpenter, Town Clerk-Treasurer of the Town of Washington, Wisconsin, to me known to be the persons who executed the foregoing instrument, and to me known to be the said Town Chairman and Town Clerk-Treasurer of the Town of Washington, and acknowledged that they executed the foregoing instrument as such officers and as the act of said corporation, by its authority.

Notary Public, Wisconsin
My commission expires _____

STATE COMMONWEALTH OF MASSACHUSETTS)
) ss.
COUNTY OF ESSEX)

Personally came before me this _____ day of May, 2014, the above-named Juliette B. Nelson, to me known to be the person who executed the foregoing instrument and acknowledged the same.

Notary Public, _____
My commission expires _____

This instrument was drafted by: Atty. William J. Wolske of
SLATKY, WOLSKE & MEHN, Attorneys.